



4-18-03

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Applicants:

Date: April 16, 2003

Booth et al.

Group Art Unit: 2141

Serial No.: 09/327,708

Examiner: Mirza, Adnan M

Filed: June 8, 1999

Docket No.: YOR919990190US1

For: REPRESENTING, CONFIGURING, ADMINISTERING, MONITORING,
AND/OR MODELING CONNECTIONS USING CATALOGS AND MATRIXES

Commissioner for Patents
Mail Stop Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

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Petition to Enter Amendment as Filed
And
Contingency Petition to Revive Application

A Notice of abandonment of the above referenced application was received dated April 8, 2003. The notice is appended hereto as Exhibit A.

This petition is to request entry of the amendment faxed to the USPTO on September 13, 2002 at fax phone number 703-305-9731. A confirmation of this fax transmittal is appended hereto as Exhibit B. Exhibit B includes the certification of facsimile transmission. The fax number used is the fax number 703-705-9731 given for the Examiner's Group on page 5 of the Office Communication dated September 4, 2002. The Office Communication included the office action to which the subject fax dated September 13, 2002 is responding. Pages 5 and 6 of the Office Action are appended hereto as Exhibit C. The Group phone number on page of Exhibit C is circled in red for emphasis.

Applicant's representative contends that although the fax was faxed to the Examiner's Group fax shown on page 5 of Exhibit B, rather than to the fax phone number shown on page 6 of Exhibit B, the fax was confirmed to be received by the USPTO. It would be rightfully expected that once received by the USPTO, the fax would be routed to the Examiner, and the fax would serve as a timely response. This is especially so when the fax was confirmed to be received

DOCKET NUMBER: YOR919990190US1

at the Examiner's Group fax phone number. Thus request is made to reinstate the application to its active state and remove it from abandonment.

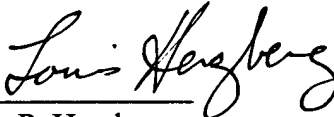
Furthermore, the apparent lack of forwarding the fax received on September 13, 2002 to the Examiner ought to be considered to be **USPTO error** and thus **no fee should be required** for this petition. However, if it is deemed that a fee is required please charge account 09-0468.

CONTINGENCY

Still furthermore, as a contingency, if it turns out that after applicants have exhausted their petition rights the fax dated September 13 is still not entered, and the above referenced application stands abandoned, request is made herewith to use this petition as a **petition to revive the application from abandonment**. Again, since the abandonment is due to PTO error the fee for the petition to revive should be waived. If however, the fee for the contingency petition is waived, please charge account 09-0468, to remove the status of abandonment.

Please contact the undersigned regarding any of the issues regarding the above referenced application.

Respectfully submitted,

By: 
Louis P. Herzberg
Reg. No. 41,500

IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598
Voice Tel. (914) 945-2885
Fax. (914) 945-3281



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re Application of Applicants:

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EXPRESS MAIL CERTIFICATE

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Express Mail Label Number EV3553454775US

Date of Deposit April 16, 2003

APR 21 2003

OFFICE OF PETITIONS

I hereby certify that attached paper or fee:

Return Post Card
Petition to Enger Amendment as Filed and Contingency Petition to Revive Application
Exhibit A
Exhibit B

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and addressed to the Commissioner for Patents Mail Stop Office of Petitions, P.O. Box 1450, Alexandria, VA 22313-1450

Margaret McCabe

(Name)

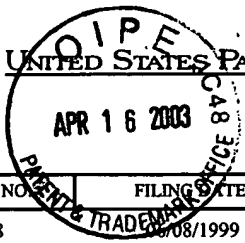

Signature

Note: Each paper must have its own certificate and the "Express Mail" label number as a part thereof or attached thereto. When, as here, the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. Identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g. complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventor(s) and the title of the invention.

Note: The label number need not be placed on each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter for a fee, along with the certificate of mailing by "Express Mail". Although the label number may be on checks, such a practice is not required. In order not to deface formal drawings it is suggested that the label number be placed on the back of each formal drawing or the drawings be accompanied by a set of informal drawings on which the label number is placed.

pre

Exhibit A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/327,708	04/08/1999	EARL HARDIN BOOTH	YO999-190	5804

7590

04/08/2003

LOUIS P HERZBERG IPLD
IBM CORORATION
P O BOX 218
YORKTOWN HEIGHTS, NY 10598

EXAMINER

MIRZA, ADNAN M

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 04/08/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

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IBM
YORKTOWN
2003 APR 15 AM 9:30
INTELLECTUAL PROPERTY
LAW DEPT.

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APR 21 2003

P24

Notice of Abandonment

Application **OFFICE OF PETITIONS**

Applicant(s)

09/327,708

BOOTH ET AL.

Examiner

Art Unit

Adnan M Mirza

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 September 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Contact the attorney's office. According to the applicant there was response sent through fax but lack of providing the evidence to prove the validity of the date. The case is resulted in abandonment. The applicant was advised to file the petition in order to revive the case.

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES
PATENT AND
TRADEMARK OFFICE



FEB 20 2003

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Dear Patent Business Customer:

The United States Patent and Trademark Office ("Office") is now permitting and encouraging applicants to voluntarily submit amendments in a revised format as set forth in *AMENDMENTS IN A REVISED FORMAT NOW PERMITTED*, ____ *Off. Gaz. Pat. Office* ____ (February 25, 2003), currently available on the USPTO web site at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm>. The revised format permits amendments to the specification and claims to be made in a single marked-up version; the requirement for a clean version is eliminated. Attached, you will find a flyer with information and instructions regarding the procedures to be used to comply with the revised format. The flyers are being inserted with out-going Office actions mailed during the period of February 20, 2003 - March 31, 2003.

The revised amendment format is essentially the same as the amendment format for the specification, claims, and drawings that the Office is considering adopting via a revision to 37 CFR 1.121 (Manner of Making Amendments). The revision to 37 CFR 1.121 (if adopted) will simplify amendment submission and improve file management. This proposed revision and others necessary to facilitate a gradual transition to the use of an Electronic File Wrapper (EFW) will be set forth in a Notice of Proposed Rule making (NPR), expected to be published by March 2003. After consideration of public comments, the Office anticipates adopting a revision to § 1.121, following publication of a Notice of Final Rule making (NFR), expected by June 2003, at which point compliance with revised § 1.121 will be mandatory.

The Office will continue to accept your amendment submissions in the revised format during the voluntary period, which will extend up to the effective date of final revisions to § 1.121. The Office also encourages your feedback on the proposed revised amendment format and other changes set forth in the NPR, expected to be published by March 2003.

For assistance: Any questions regarding the submission of amendments pursuant to the revised practice should be directed to Office of Patent Legal Administration (OPLA), Legal Advisors Elizabeth Dougherty (Elizabeth.Dougherty@uspto.gov), Gena Jones (Eugenia.Jones@uspto.gov) or Joe Narcavage (Joseph.Narcavage@uspto.gov). Alternately, you may send e-mail to "Patent Practice", the OPLA e-mail address that has been established for receiving queries and questions about patent practice and procedures or telephone OPLA at (703) 305-1616.

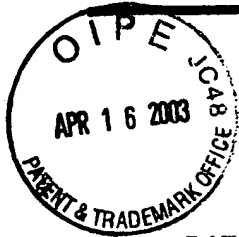
Nicholas P. Godici
Commissioner for Patents

Attachment: Flyer entitled: *Revised Notice* AMENDMENTS MAY NOW BE SUBMITTED IN REVISED FORMAT*

IBM Corporation

Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598
Fax: (914) 945-5127
or (914) 945-5127

Exhibit B



FACSIMILE

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OFFICE OF PETITION

DATE: 4/7/03 NO. OF PAGES TO FOLLOW: 3

TO:
NAME: Examiner Mirza

ADDRESS: _____

PHONE NO. _____

FAX NO. 703-305-9731

FROM:
NAME: Margie McCabe Adm. Asst. to Louis Herzberg

PHONE NO. 914-945-2947

LOCATION: _____

CONTACT #: _____

CLASSIFICATION:

____ IBM CONFIDENTIAL
____ PERSONAL

____ IBM INTERNAL USE ONLY
____ UNCLASSIFIED

MESSAGE: 09/327708, Response to
Restriction which was faxed in
September 13, 2002.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE.

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Date: September 13, 2002

Group Art Unit: 2152

Examiner: Mehmet B. Geckil

Docket No.: YOR919990190US1

Assistant Commissioner for Patents
Washington, D. C. 20231

CERTIFICATION OF TRANSMISSION

PURSUANT TO 37 CFR 1.8

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (1 page) is being facsimile transmitted under Rule 37 CFR 1.6(d) to the U.S. Patent and Trademark Office to (703) 308-9031 on September 13, 2002.


Margaret McCabe

IBM TJ Watson Research Center
P.O. Box 218
Yorktown Heights, NY 10598
(914) 945-3217



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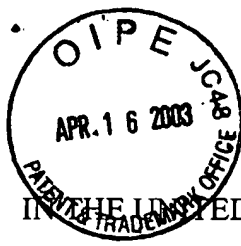
PURSUANT TO 37 CFR 1.8

CERTIFICATE OF FACSIMILE TRANSMISSION

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Margaret McCabe

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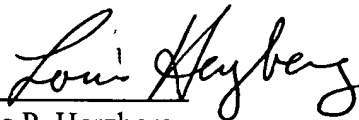

Margaret McCabe

AMENDMENT

Response to Restriction Requirement Dated September 4, 2002:

Applicants elect without traverse Group I (claims 1-45).

Respectfully submitted,

By: 
Louis P. Herzberg
Reg. No. 41,500

IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
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Fax. (914) 945-3281

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